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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,741	02/05/2004	Ronald R. Smith	7463-34 CE12134JSW	5634
30448	7590	10/05/2006		EXAMINER
AKERMAN SENTERFITT				BATAILLE, PIERRE MICHE
P.O. BOX 3188				
WEST PALM BEACH, FL 33402-3188			ART UNIT	PAPER NUMBER
			2186	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/772,741	SMITH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Pierre-Michel Bataille	2186	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 February 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/05/04.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. The present Office action is taken in conjunction to examination of Application No. 10/772,741 filed 05 February 2004 presenting claims 1-18 for examination.
2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors.

The first instant of all acronyms and/or abbreviations should be spelled out for clarity whether considered well known or not. As such "FDI and DAV should be defined for clarity.

Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 5-6, and 8-17 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0073497 (Nelson).

With respect to claims 1, 10, and 14, Nelson discloses method and apparatus for dynamically allocating and deallocating memory space to accommodate either permanent or temporary storage in an NV-RAM, wherein a software client requests new game code with a request or test for adequate memory (function requests including a request allocating or deallocating memory space within NV-RAM memory), which follows dynamic resize of memory allocations (Fig. 2A; Fig. 4B; Par. 0016), the new game code may be transmitted from a remote computing device (i.e., workstation, server, or the like) or by a portable device (i.e., laptop, PDA, handheld, or the like) that may communicate with the gaming machine by either wireless or wireline communications [Par. 0037, Fig. 8B].

With respect to claims 10 and 14, in addition to the explanation above, this explanation covers a base transmitter corresponding to workstation, server, or the like, reallocation of non-volatile RAM within a portable communication device corresponding to laptop, PDA, handheld, or the like [Par. 0037]; the system uses temporary memory space provided by the NV-RAM used for the duration of the operational transaction and critical data space [Par. 0016; 0031].

With respect to claims 2, 8, 11, and 15 Nelson disclose function requests to include a request allocating or deallocating memory space, opening or closing files or data, and reading, writing, resizing, and moving of heap blocks within NV-RAM memory [Par. 0039 & 0038].

With respect to claims 5, 12-13, and 16-17, Nelson discloses the communication device selected laptop, PDA, handheld, or the like) that may communicate with the gaming machine by either wireless or wireline communications [Par. 0037, Fig. 8B].

With respect to claim 9, Nelson discloses billing a subscriber using the communication device [Par. 0034].

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 3-4, 7, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0073497 (Nelson).

With respect to claim 4, Nelson fails to specifically teach java heap initially shipped with the communication device. However, the examiner takes OFFICIAL NOTICE that java heap shipped initially with the communication is of the general principle of the communication device such as hand held devices. Therefore it would have been obvious to require a larger java heap than the java heap initially shipped in order to be able to run updated application downloaded to the portable communication device.

With respect to claims 3, 7, and 18, Nelson fails to specifically teach reallocating memory between FDI blocks and DAV space. However, such feature is of a general principle of the communication device such as hand held devices. Therefore it would have been obvious to require a larger java heap than the java heap initially shipped in order to be able to run updated application downloaded to the portable communication device.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

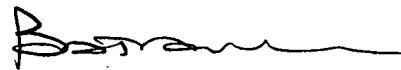
US 2005/0050282 (Vantalon et al) discloses memory reallocation and sharing in electronic systems.

US 2004/0186897 (Knauerrhase et al) teaching memory reallocation in mobile devices.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Michel Bataille whose telephone number is (571) 272-4178. The examiner can normally be reached on Mon-Fri (8:00A to 4:30P).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew M. Kim can be reached on (571) 272-4182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Pierre-Michel Bataille  
Primary Examiner  
Art Unit 2186

September 29, 2006

**PIERRE BATAILLE**  
**PRIMARY EXAMINER**